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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/430,063 10/29/99 OUSSOREN

R BHAG. 68900

IM52/0522

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EXAMINER

PHAM, M

ART UNIT

PAPER NUMBER

1724

DATE MAILED: 05/22/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.

09/430,063

Applicant(s)

OUSROEN ET AL

Examiner

PHAM

Group Art Unit

1724

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

Amult A

☒ Responsive to communication(s) filed on 03/20/01

☒ This action is FINAL.

- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

## Disposition of Claims

☒ Claim(s) 1-16 is/are pending in the application.

Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-16 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
  - ☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

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***Specification***

1. The disclosure is again objected to because of the following informalities: on page 1, lines 3 and 7, the U. S. Patent Numbers and the issued dates are missing. Appropriate correction is required

***Claim Rejections - 35 USC § 102***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1-16 are again rejected under 35 U.S.C. 102(b) as being anticipated by Brunner (5,964,909; Abstract; A, B, C, 1, 2, 4, 5, 6, 7, 8, 9, 10 & 11 in Fig. 1; Figs. 2-5; col. 2, line 61 through col. 3, line 55; col. 4, lines 12-25).

Brunner teaches a filter cartridge to be removably and sealingly received within a circular opening through a tube sheet comprising a filter sleeve formed as a tubular member, a tubular screen positioned interiorly of the filter sleeve for structural support, a bottom end cap sealingly secured to the lower end of the filter sleeve, a tubular fitting including a flange extending above the tube sheet having a tube sheet mouth insert, a contoured transition, a lower cylindrical collar extending beneath the tube sheet all integrally formed of flexible, resiliently deformable material, and a tubular expander with an insert able band including an outer diameter substantially equal to

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or less than the inner diameter of the flange of the fitting, and the band configured to engage interiorly the frusto-conical portion of the contoured transition of the fitting proximate the circular opening through the tube sheet to outwardly bias portions of the resiliently deformable fitting to affect sealing engagement with the cylindrical mouth surface of the tube sheet.

***Response to Arguments***

4. Applicant's arguments filed on March 20, 2001 have been fully considered but they are not persuasive.

Applicants' main argument is that "the applied reference Brunner U.S. Patent No. 5,964,909 under 35 U.S.C. 102 is not an effective prior art reference against the present application because the Brunner patent is issued on October 12, 1999 on an application filing date of September 4, 1998 while the present application claims priority back to the U.S. Patent No. 5,632,791 issued on May 27, 1997 on an application filing date of December 6, 1994". The Examiner respectfully disagrees. The Brunner reference is an effective prior art reference against the present application because the subject matter "a tubular fitting including a flange extending above the tube sheet having a tube sheet mouth insert, a contoured transition, a lower cylindrical collar extending beneath the tube sheet all integrally formed of flexible, resiliently deformable material, and a tubular expander with an insert able band including an outer diameter substantially equal to or less than the inner diameter of the flange of the fitting, and the band configured to engage interiorly the frusto-conical portion of the contoured transition of the fitting proximate the

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circular opening through the tube sheet to outwardly bias portions of the resiliently deformable fitting to affect sealing engagement with the cylindrical mouth surface of the tube sheet" is patentable, and the Brunner U.S. Patent No. 5,964,909 issued on October 12, 1999 is entitled the benefit of the early filing date of September 4, 1998. The subject matter "a tubular fitting including a flange extending above the tube sheet having a tube sheet mouth insert, a contoured transition, a lower cylindrical collar extending beneath the tube sheet all integrally formed of flexible, resiliently deformable material, and a tubular expander with an insert able band including an outer diameter substantially equal to or less than the inner diameter of the flange of the fitting, and the band configured to engage interiorly the frusto-conical portion of the contoured transition of the fitting proximate the circular opening through the tube sheet to outwardly bias portions of the resiliently deformable fitting to affect sealing engagement with the cylindrical mouth surface of the tube sheet" (as described in Figures 3-22) is claimed on a present application continuation-in-part 09/430,063 with the filing date of October 29, 1999, and no where in the previous applications or patents that this new subject matter (Figs. 3-22) is claimed or specified in the specifications. Therefore, the Brunner reference with an earlier filing date September 4, 1998 is a perfectly effective prior art against the present application with the filing date of October 29, 1999 on the new subject matter "a tubular fitting including a flange extending above the tube sheet having a tube sheet mouth insert, a contoured transition, a lower cylindrical collar extending beneath the tube sheet all integrally formed of flexible, resiliently deformable material, and a tubular expander with an insert able band including an outer diameter substantially equal to or less

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than the inner diameter of the flange of the fitting, and the band configured to engage interiorly the frusto-conical portion of the contoured transition of the fitting proximate the circular opening through the tube sheet to outwardly bias portions of the resiliently deformable fitting to affect sealing engagement with the cylindrical mouth surface of the tube sheet" (Figs. 3-22).

Applicants further argue that "in the Brunner patent, at column 1, line 58 et seq., applicant's priority patent U.S. Patent No. 5,632,791 is specifically acknowledged as prior art. This is additional reason to remove Brunner as an effective prior art reference in the present case". Brunner's reference to U.S. Patent No. 5,632,791 as prior art in discussing the improvement of the flexible sealing sleeve wherein the resilience of the material in the flexible sleeve provides a dust tight seal. It has nothing to do with the new subject matter which is "a tubular fitting including a flange extending above the tube sheet having a tube sheet mouth insert, a contoured transition, a lower cylindrical collar extending beneath the tube sheet all integrally formed of flexible, resiliently deformable material, and a tubular expander with an insert able band including an outer diameter substantially equal to or less than the inner diameter of the flange of the fitting, and the band configured to engage interiorly the frusto-conical portion of the contoured transition of the fitting proximate the circular opening through the tube sheet to outwardly bias portions of the resiliently deformable fitting to affect sealing engagement with the cylindrical mouth surface of the tube sheet". Therefore, the Brunner filter is NOT an infringement of Applicants' earlier Patent 5,632,791.

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With many years of practicing patent law, Applicants' attorney is advised to reread and to understand the definition and the purpose of filing a "continuation-in-part" application.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh-Chau Pham whose telephone number is (703) 308-1605.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

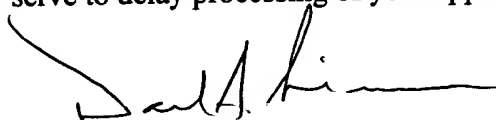
Applicant's response may be mailed or faxed. However, note that some correspondence may not be faxed, i.e. certain correspondence requiring an original signature and certain drawing changes (see MPEP 502.01). The fax number for Technology Center 1700 for After Final

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communications is (703) 305-3599. If the response is faxed, a duplicate mailed copy of the facsimile transmission is not required and will only serve to delay processing of your application.



MCP



May 14, 2001

David A. Simmons  
Supervisory Patent Examiner  
Technology Center